

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket № 14823US02)**

In the Application of:

Jeyhan Karaoguz, et al.

Serial No. 10/675,843

Filed: September 30, 2003

For: AUTOMATED ROUTING OF MEDIA
EXCHANGE NETWORK

Examiner: Umar Cheema

Group Art Unit: 2444

Confirmation No. 6899

Electronically Filed on 02-NOV-2009

REPLY BRIEF

MS: APPEAL BRIEF-PATENTS
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR § 41.41, the Appellant submits this Reply Brief in response to the Examiner's Answer mailed on September 4, 2009. Claims 1-5, 7-16, 18-27 and 29-34 are pending in the present Application. The Appellant has responded to the Examiner in the Examiner's Answer, as found in the following Argument section.

As may be verified in the final Office Action (page 2), dated October 24, 2008 ("Final Office Action"), claims 1-5, 7-16, 18-27, and 29-34 were finally rejected. Claims 1-34 were originally filed, and claims 6, 17, and 28 were subsequently cancelled.

Claims 1-5, 7-16, 18-27, and 29-34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over USPP № 2002/0124258 ("Fritsch") in view of USPP № 2004/0024886 ("Saxena"). See Final Office Action at page 2. The Appellant identifies claims 1-5, 7-16, 18-27, and 29-34 as the claims that are being appealed. To aid the Board in identifying corresponding arguments, the Appellant has used the same headings in the Argument section of this Reply Brief as the headings found in the Appellant's corresponding Brief on Appeal. The Brief on Appeal has a date of deposit of May 20, 2009.

STATUS OF THE CLAIMS

Claims 1-5, 7-16, 18-27 and 29-34 were finally rejected. Pending claims 1-5, 7-16, 18-27 and 29-34 are the subject of this appeal.

ARGUMENT

I. The Proposed Combination of Fritsch and Saxena Does Not Render Claims 1-5, 7-16, 18-27, and 29-34 Unpatentable

A. Independent Claims 1, 12, and 23

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal. In response to Appellant's Brief on Appeal, the Examiner is using the following new argument stated on pages 6-7 of the Examiner's Answer:

Appellant argues Independent claims 1, 12, and 23

15. On pages 6-13 of Appellant's Appeal Brief, Appellant argues Independent claims 1, 12 and 13. Appellant asserts that Fritsch individual or in combination with Saxena does not disclose, "wherein said automatic transfer is controlled by utilizing at least a first rule hosted by said one or both of said first media processing system and/or said first personal computer" as claimed. This argument is not deemed persuasive.

16. In response to Appellant argues that Fritsch does not describe how media content is transferred to the media center 300 and how the transfer is controlled" or "that the transfer of the content 302 is controlled in any way by a rule". **Examiner notes that the claimed "first rule" is broadly recited, and is not limited by the claim language regarding any specific mechanics.** At best, the claimed "first rule" as recited in claim 1 has the functionality of "controlling" the transfer of data to the first media processing system/computer. As acknowledged by Applicant, the media delivery center of Fritsch receives data (i.e., "transferring ...media...to...a first media processing system", claims 1, 12 and 23). Examiner submits that any number of provisions associated with the transfer of data between the media deliver center and content source of Fritsch reads on the broad concept of controlling such transfer using a "first rule". For example, *the protocol used to transfer data* ("media delivery center 202 can receive local TV broadcasts 204 and satellite broadcasts", paragraph [0031]), *the format of the data* ("video, audio or graphic forms", paragraph [0031]), *subscription rules* ("end users subscribe to the media delivery system for various programs", paragraph [0031]), or *security rules* ("media program content 302 is encrypted", paragraph [0033]) can all be considered "rules" as they are clearly

aspects that control the transfer of media content to the media delivery center. The breadth of the claim language allows for such a reasonable interpretation. While it may be argued that the reference does not specifically refer to such considerations as "rules", to consider the provisions governing data transfer noted above as rules would have been reasonably drawn from the disclosure of Fritsch. "[I]n considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." In re Preda, 401 F.2d 825,826,159 USPQ 342,344 (CCPA 1968). See MPEP 2144.01.

The Appellant respectfully disagrees, especially with the above bolded portion of the argument. Initially, the Appellant reiterates that Fritsch relates to communication of media from a content source (e.g., satellite) **to a headend, and not to a client device** (e.g., a media processing system or a personal computer).

As explained in the Appeal Brief, Appellant's "first rule" controls automatic transfer of media, data and/or service to a media processing system and/or a personal computer, where the first rule is hosted by the first media processing system and/or the personal computer. In this regard, Appellant's "first rule" is limited by the claim language to the above mentioned specific mechanics (e.g., the **"first rule" controls automatic transfer of content, and the rule is hosted by the media processing system and/or the computer**).

Even if we consider, arguendo, the specific examples used by the Examiner (e.g., protocol used to transfer data, the format of the data, subscription rules, or security rules) to be "rules", such interpretation is not sufficient to overcome Appellant's claim language. For example, **Fritsch does not disclose that any of the above mentioned alleged "rules" controls automatic transfer of media content to a client**

device. Furthermore, neither Fritsch nor Saxena disclose that any of the above mentioned alleged "rules" are hosted by the client device that receives the transferred media.

The Appellant notes that the Examiner's Answer has not addressed the Appellant's arguments in their entirety. For example, the Examiner's Answer has not addressed the above argument regarding the "first rule" being hosted by the client device, as well as the remainder of Appellant's arguments on the deficiencies of the references, as stated in pages 9-13 of the Appeal Brief.

The Appellant respectfully submits that independent claims 1, 12 and 23 are allowable.

B. – K. Dependent Claims 2-5, 7-11, 13-16, 18-22, 24-27, and 29-34

The Appellant stands by the arguments made in the corresponding sections of the Brief on Appeal. In response to Appellant's Brief on Appeal, the Examiner is using the following argument for each of the dependent claims:

On pages ____ of Appellant's Appeal Brief, Appellant's arguments toward these claims are substantially the same as those directed toward claims 1, 12, and 23, which examiner has responded above. Appellant does not provide any other arguments that distinguish over the references of Fritsch and Saxena, therefore the present rejection should be affirmed.

See Examiner's Answer at pages 7-9. The Appellant respectfully disagrees that the arguments regarding the dependent claims are "substantially the same as those directed toward claims 1, 12, and 23." The Examiner is referred to the detailed arguments regarding allowability of dependent claims 3, 14, and 25 (pages 14-15 of the

Appeal Brief); dependent claims 4, 15, and 26 (pages 15-16 of the Appeal Brief); dependent claims 5, 16, and 27 (page 17 of the Appeal Brief); dependent claims 7, 18, and 29 (pages 18-19 of the Appeal Brief); dependent claims 8, 19, and 30 (pages 19-20 of the Appeal Brief); dependent claims 9, 20, and 31 (pages 20-21 of the Appeal Brief); dependent claims 10, 21, and 32 (pages 22-23 of the Appeal Brief); and dependent claims 11, 22, and 33 (pages 23-24 of the Appeal Brief). The Appellant points out that the Examiner's Answer has not responded to any of the above mentioned arguments regarding allowability of the dependent claims.

CONCLUSION

The Appellant submits that the pending claims are allowable in all respects. Reversal of the Examiner's rejections for all the pending claims and issuance of a patent on the Application are therefore requested from the Board.

The Commissioner is hereby authorized to charge additional fee(s) or credit overpayment(s) to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

Date: 02-NOV-2009

By: /Ognyan I. Beremski/
Ognyan Beremski, Reg. No. 51,458
Attorney for Appellant

McANDREWS, HELD & MALLOY, LTD.
500 West Madison Street, 34th Floor
Chicago, Illinois 60661
Telephone: (312) 775-8000
Facsimile: (312) 775 – 8100

(OIB)